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STATEMENT BY
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FOR LAW OF THE SEA CONFERENCE AND
UNITED STATES REPRESENTATIVE TO THE
THIRD UNITED NATIONS CONFERENCE
ON THE LAW OF THE SEA
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Many experienced diplomats would agree that the Law of the Sea Conference is the most important and complex global negotiation to take place since the founding of the United Nations. However, its importance to the public at large is frequently obscured by the complexity of the issues. Indeed, the response of states to the events of the last eight weeks here may well have a profound impact on the future of the oceans and man's ability to use them peacefully. The ultimate success or failure will influence the views of thoughtful men everywhere on the very capacity of the organized international community to deal with problems on a global scale in more than general and non-binding terms.

At the end of the Caracas Session of the Law of the Sea Conference last August, I reported that while the General outlines of the Law of the Sea Treaty had emerged, what was missing was the will to negotiate, to make the accommodations necessary to achieve specific agreements.

Obviously we have not reached the stage of any final agreement in Geneva. If I might summarize the situation as it now appears, I would say that there have been two concrete results. First, there has been progress, and in some cases substantial progress, on filling in with specific articles the outlines of a treaty, particularly with respect to the duties in a 200-mile Economic Zone in which the coastal states would control both coastal fisheries and non-living resources. On other subjects, the discussions and negotiations were not as focused on the essential elements of agreement as they might have been, but there was no general debate, and because most of the meetings were informal there was far less talking for the record than at the Caracas session.

A second result has been a procedural one, and that is the single texts of Treaty articles on virtually all subjects with which the Conference is dealing that were distributed today.

I say that the texts are an important procedural result, because early in the session it became evident that one of the things that was slowing the process of negotiation was the lack of a single text with which to work in each of the main committees. In Committee II we were, as you know, working with the main trends paper prepared in Caracas which included a number of alternatives of all key issues. The single text, as the President of the Conference emphasized when he requested that the Committee Chairmen produce such a text on their individual responsibility, is not a negotiated or consensus text. It is a text intended for use as the basis for future negotiations and

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which, of course, will be revised and amended to reflect the agreements and accommodations that we hope will be possible at the next session. Nevertheless, some important aspects of the text are in fact a reflection of the latest stage reached in some very productive negotiations.

As you know, this document is a lengthy one and was distributed only this morning, so I cannot comment on it at this time, other than to welcome its appearance as a device which may serve to speed the negotiations along.

While the single text is one visible result of the Conference, there are other bases on which we might assess the work that has gone on here.

We have, as you know, agreed on another formal session in April next year with provision for a second session next summer if the Conference decides this is desirable, and on provision of conference and interpretation facilities for informal, intersessional work. On some important controversial issues, we have negotiated texts that come quite close to what might be generally acceptable. On a large number of technical issues such as baselines, innocent passage in the territorial sea and high seas law, we have a large body of negotiated texts. Together with the single texts, these represent the tools with which we can proceed. Whether or not we do proceed, and how fast, depends upon the answer to one question, and that is, are Governments willing to make the political decisions on a few critical issues which must be resolved to permit accommodations of fundamental interests? No amount of continuing discussion will avail unless, in this interim period, a number of Governments determine that, in the interest of an overall agreement, some willingness to accept less than their view of the optimum possible result is necessary. It seems to me that whether we wish it or not, events may overtake this effort and the time will be past in which a comprehensive Law of the Sea agreement is possible. Yet one of the difficulties we have faced in trying to move ahead is that many delegations do not share our sense of urgency and our concern that unilateral actions may overtake us.

This opportunity is not yet lost, and I for one would continue to urge patience and understanding of the enormous difficulty and complexity of the tasks we have undertaken. At the same time, I must emphasize that from the points of view of the United States and other countries at this Conference, certain fundamental interests must be accommodated. We are prepared, and I think the record of the many U.S. proposals that have been made in the course of these two sessions show that we have been prepared, to accommodate the interests of other countries. But at the same time, we are not prepared to abandon those interests which we deem vital not only for the United States but for the world community as a whole.

On some very important issues we have arrived at the point where, if we continue to move ahead, an agreed text is possible.

On the economic zone, the Evensen Group, an informal Group of 40 countries meeting under the Chairmanship of Minister Jens Evensen of Norway, has met almost daily during this session and completed a text of articles on the 200-mile economic zone, including fisheries questions. The text attempted, and I think in large measure succeeded, in the essential task of the economic zone negotiation; to establish the balance of rights and duties of coastal states, and of all other states, which have a vital interest in the many uses of an area which would amount to more than one third of the world's oceans. Nevertheless, we must bear in mind that the landlocked and geographically disadvantaged states do not believe adequate provision has yet been made to protect their interests.

Fisheries is a matter of great concern to the United States and to many other nations at this Conference. The Evensen text provides for the right of the coastal state to manage coastal fish stocks in the 200-mile economic zone, and for their conservation and full utilization in a world which has great need for additional food resources. Moreover the Evensen text contains a new and very welcome development of great importance to our environmentalists and fishermen; recognition of the special interests of the state of origin in anadromous fish such as salmon that spawn in our streams. No agreement, however, was reached on the treatment in the economic zone of highly migratory fish such as tuna.

The economic zone is one part, although clearly a critical part, of a Committee II package of issues which includes also the resolution of the question of a territorial sea and unimpeded passage through straits used for international navigation. There is a clear consensus in this Conference for a 12-mile territorial sea and growing perception of the importance to the world community of fully guaranteeing unimpeded transit for ships and aircraft in straits used for international navigation.

I spoke to some of you a week or two ago on the issue of the continental margin at which time I said I believed a compromise could be worked out which would couple coastal state jurisdiction over the continental margin in those areas where it extends beyond 200 miles, with revenue sharing on production in that area beyond 200 miles. By way of illustration, we have presented a specific idea with respect to revenue sharing from the continental margin under coastal state jurisdiction beyond 200 miles. After five years of production at a site the coastal state obligation to share revenues would begin at one percent of wellhead value and increase by one percent per year until it reached five percent in the tenth year, after which it would remain at five percent. Our experts tell us that if we assumed a given field would produce 700 million barrels of oil through a 20 year depletion period, and a value of $11 per barrel, the total amount would be $130 million per field. I should note that the oil and other minerals themselves, and revenues collected by the coastal state would of course remain with the coastal state. This problem was discussed somewhat late in the Conference and I would hope that the details of such a compromise could be worked out early in the next session.

With respect to the deep seabed, we were encouraged early in the session with what appeared to be a sincere effort on the part of many states to create a regime which would serve the interests of the international community without obstructing, or subjecting to political judgements, the development of the mineral resources. The investment in this type of project is, as you know, an enormous one. And, in a world where we have all felt the effects not only of scarcity of vital raw materials, but of uncertainty of access to them, nations are not prepared, in my judgement, to subject their access to seabed minerals to a system of exploration and exploitation and to a decision-making process in which they do not have reasonable assurances of security of access and may not be adequately represented. Moreover, I do not think it will be possible, seen against the background of today's developments in raw materials matters, to agree to give ultimate powers of exclusive exploitation to a single, new international entity. The United States has been willing to work with all nations of the world to ensure that a system of exploitation is devised that will permit both sharing in the benefits and future participation in the development of these resources. So far, however, basic compromises on this most difficult of issues have eluded all of us, although I am pleased to say that on some of the important issues progress has been made.

On problems of marine pollution which concern us all, I think there is a growing agreement that pollution standards should be established internationally. Together with new and effective enforcement of such agreed standards, this is the only way in which the problem of pollution can effectively be dealt with.

I am particularly dismayed by continuing attempts to place restrictions on the conduct of marine scientific research. Knowledge of the oceans is important to all of us. Good science is free science: it is not a commodity that can be packaged and purchased in predetermined quantities. The Conference should concentrate on means to ensure that all will enjoy the fruits of science, not on means to restrict science for fear it will only benefit the few.

What we sometimes tend to lose sight of in the course of negotiations is that we are not here to decide what is yours and what is mine. We are not concerned solely with resources, or with navigation, or with scientific research, or with pollution, or with fisheries. What this agreement must do, if it is to be effective, is to create a balance of all these multiple uses of the oceans, so that while interests of coastal states are recognized, the interest of all in navigation and other non-resource uses of the oceans, and in their preservation as a productive and healthy environment, is maintained.

Such a balance of interests is inevitably going to lead to disputes as to their interpretation, and this Conference has also done some notable work in the drafting of general articles and alternative possibilities of means of binding settlement of such disputes. In the U.S. view, binding dispute settlement procedures would be a necessary part of such a treaty. Otherwise we may simply convert disagreements

about principles into disagreements about interpretation. There is serious doubt that this would serve anyone's interest.

This is a somewhat lengthy assessment of what has transpired here, yet it seems to me important not to lose sight of the progress we have made simply because these negotiations have not yet resulted in agreed treaty articles in all areas.

It may be that the reason that more fundamental agreements were not reached here had less to do with the willingness of states to make them than with the fact that the pace of progress did not earlier lead us to the point where such agreements were essential to further progress. Certainly, it is difficult to over-estimate the difficulties inherent in a negotiation of some 140 states on matters of vital national interest to many.

I am hopeful that the common purpose that has sustained this difficult negotiation through its early stages is intact. That purpose is our shared conviction that law, not anarchy, will best serve man's future in the oceans. The real problems of nations and their citizens that make this negotiation difficult will not disappear if we do not succeed, they will get worse. There are basic differences of national interest and the sense of urgency of resolving our oceans problems, as well as basic differences of perception in how best to protect common interests, but none, I think, would willingly choose the course of chaos in which even greater power prevails at great cost.

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